

# **EXHIBIT A**

Plan Proponents' Case in Chief: TDPs Provide Equal Treatment		
Plan Proponents' Proposal		Plan Objectors' Proposal
<b><u>INSELBUCH</u></b> • history of trust procedures and TDPs • modifications made in this case	2.00 (direct) 1.00 (cross) .25 (redir) 3.25 (TOTAL)	Substantial Agreement
<b><u>WELCH</u></b> • basis for TDP severe pleural disease category • TDP expedited review criteria are medically reasonable	1.00 (direct) 1.00 (cross) .25 (redir) 2.25 (total)	Substantial Agreement <sup>1</sup>
<b><u>PETERSON</u></b> • basis for scheduled values	.75 (direct) .75 (cross) .25 (redir) 1.75 (total)	Substantial Agreement <sup>1</sup>
<b><u>HUGHES</u></b> • Libby litigation history	.75 (direct) .75 (cross) .25 (redir) 1.75 (total)	1.50 Hours Cross
<b><u>HAMMAR</u></b> (by declaration/stipulation) <b><u>LONGO</u></b> (by declaration/stipulation)		Substantial Agreement
<b><u>PRESENTATION OF 1006 SUMMARIES OF DEP TESTIMONY (WHITEHOUSE, FRANK, MOLGAARD) RE:</u></b> (1) discrimination issues (2) exposure issues (3) settlement values	1.00 (total)	Substantial Agreement
	<b>9.00 TOTAL</b>	<b>10.50 TOTAL</b>

<sup>1</sup> Libby Claimants originally asked for more cross time, but now agree the Court will not permit their cross to be longer than PPs' direct.

Libby Claimants' Response re Equal Treatment		
Plan Proponents' Proposal		Plan Objectors' Proposal
<b><u>5 CLAIMANTS</u></b>	2.50 (total)	Substantial Agreement 6 Claimants – 3 Hours Total (2 Hours Direct)
<b><u>MOLGAARD</u></b> • Libby epidemiology issues	1.00 (direct) .50 (cross) <u>.25 (redir)</u> 1.75 (total)	1.50 Hours Direct
<b><u>WHITEHOUSE</u></b> • Libby medical issues	1.50 (direct) 1.00 (cross) <u>.50 (redir)</u> 3.00 (total)	2.50 Hours Direct
<b><u>DECLARATIONS &amp; DOCUMENTS</u></b>		
	<b>7.25 TOTAL</b>	<b>9.25 TOTAL</b>

Libby Claimants' Response re Equal Treatment (cont'd)		
Plan Proponents' Proposal		Plan Objectors' Proposal
<u>FRANK</u> • Libby medical issues	1.00 (direct) .75 (cross) <u>.25 (redir)</u> 2.00 (total)	3.00 Hours Direct
Plan Proponents' Rebuttal re Equal Treatment		Plan Objectors' Proposal
<u>WEILL</u> • Libby medical issues	1.00 (direct) .75 (cross) <u>.25 (redir)</u> 2.00 (total)	1.25 Hours Cross
<u>MOOLGAVKAR</u> (if necessary) • Libby epidemiology issues	.75 (direct) 1.00 (cross) <u>.25 (redir)</u> 2.00 (total)	Substantial Agreement
	<b>6.00 TOTAL</b>	<b>8.50 TOTAL</b>
Extra time to account for previous underestimates (must stop at 4pm)		

- Plan Does Not Violate Insurance Company or Third Party Rights
- TAC
- Assignment
- Class 6 vs. 9
- Exculpation
- Reimbursement
- Scope of Injunctions & Releases

Plan Proponents' Proposal		Plan Objectors' Proposal
<b><u>FINKE</u></b> • appropriateness of releases	.75 (direct) 1.00 (cross) <u>.25 (redir)</u> 2.00 (total)	2.50 Hours Cross
<b><u>INSELBUCH</u></b> • operation of the Trusts and the TAC	.50 (direct) 1.00 (cross) <u>.25 (redir)</u> 1.75 (total)	2.00 Hours Cross
<b><u>POSNER</u></b> • notification and insurer consent to settlement	.50 (direct) 1.00 (cross) <u>.50 (redir)</u> 2.00 (total)	4.50 Hours Cross/Direct
<b><u>HUGHES</u></b> • TDP vs. tort system standards • insurer consent to settlement	.50 (direct) 1.00 (cross) <u>.25 (redir)</u> 1.75 (total)	3.25 Hours Cross/Direct
<b><u>SHELNITZ</u></b> (by declaration/stipulation for corporate history; if not agreed to, then 1.00 hour for direct/cross)		Substantial Agreement
<b><u>ARROWOOD WITNESSES</u></b> (Hooper, Pernicone, Schiavoni, and Heinze, if needed, by declaration)	.25 (total)	Substantial Agreement
	<b>7.75 TOTAL</b>	<b>16.00 TOTAL</b>

*\* All parties participating in the trial reserve their rights to cross-examine all witnesses.*

- **Insurer & Third Party Response: Plan Does Not Violate Insurance Company or Third Party Rights**
- **Exculpation**
- **Reimbursement**
- **Scope of Injunctions & Releases**
- **TAC**
- **Assignment**
- **Class 6 vs. 9**

Plan Proponents' Proposal		Plan Objectors' Proposal
	TOTALS	
<u>PRIEST</u> (Various Insurers)	1.50	1.75 Hours Just Direct <sup>2</sup>
<u>SHEIN</u> (CNA and Others)	1.50	2.50 Hours Direct <sup>3</sup>
<u>PATRICIA HOOPER KELLEY</u> (Travelers)	1.25	1.25 Hours Direct
<u>LONGACRE</u>	1.00	(Working on stip.)
<u>FFIC</u> - 2 witnesses	1.00	Substantial agreement
<u>SEATON/ONE BEACON</u>	1.00	Substantial Agreement (maybe stip.)
<u>BNSF</u> <sup>2</sup>	1.00	2.00 Hours Direct; 2.00 Hours Cross (Burrin, Proctor, Miranda, and McKee witnesses)
<u>GARLOCK</u>	N/A	3.00 Hours Direct (Grant and Turlick witnesses)
<u>ZURICH</u> (custodian)	.50	Substantial Agreement (maybe stip.)
<u>MCC</u> (declaration of custodian)	1.00	Substantial Agreement (maybe stip.)
	9.75 TOTAL	12.50 TOTAL
REBUTTAL?		

<sup>2</sup> The Insurers have indicated that Priest and Shein are not available on Sept. 14. The Insurers noted that Professor Shein will be prepared to testify on Sept. 15 (afternoon), Sept. 16, or Sept. 17, and the parties agree that the exact date on which Professor Shein will testify will depend on whether there is slippage in the trial schedule. The Insurers have indicated that Professor Priest is only available on Sept. 16.

<sup>3</sup> The Plan Proponents and certain other parties note that Miranda and Proctor should be withdrawn because BNSF cannot subpoena them to testify as they are outside of subpoena power jurisdiction.

*\* All parties participating in the trial reserve their rights to cross-examine all witnesses.*

Lender Default Interest		
Plan Proponents' Proposal	Plan Objectors' Proposal	
<b>PLAN PROPONENTS</b>		
<b><u>SHELNITZ</u></b> • Lender course of conduct	1.50	1.00 (direct) .50 (cross) .25 (redir)
<b><u>TAROLA</u></b> • Lender course of conduct	1.00	1.50 (direct) .50 (cross) .25 (redir)
<b><u>PETERSON</u></b> • liability estimate • operations of the Trusts and TAC	1.50 (direct) 1.50 (cross) .25 (redir)	1.50 (direct) 1.00 (cross) .25 (redir)
<b><u>ZILLY</u></b> • solvency	1.00	1.00 (direct) 1.00 (cross) .25 (redir)
<b><u>PRESENTATION OF 1006 SUMMARIES RE DEP TESTIMONY (ORDWAY) RE:</u></b> • solvency	.25	Substantial Agreement
<b>LENDERS</b> • Want to name undisclosed rebuttal witness (Plan Proponents object) • Judicial notice of estimation trial and other transcripts and documents (Plan Proponents object)		
<b><u>FREZZA</u></b> • solvency	1.00	1.00 (direct) .50 (cross) .25 (redir)
<b><u>KRUGER</u></b>	1.00	Substantial Agreement .50 (direct) .25 (cross) .25 (redir)
<b><u>FREEDGOOD</u></b> (by declaration) • default	.25	Substantial Agreement
<b>REBUTTAL</b>		
<b><u>FLORENCE</u></b> • estimates	.75	Substantial Agreement .50 (direct) .25 (cross) .25 (redir)
<b><u>MARTIN</u></b> • estimates	.75	Substantial Agreement .50 (direct) .25 (cross) .25 (redir)
	<b>9.75 TOTAL</b>	<b>14.25 TOTAL</b>

*\* All parties participating in the trial reserve their rights to cross-examine all witnesses.*

Plan Fulfills Other Requirements of 1129 and 524(g) of the Code		
Plan Proponents' Proposal		Plan Objectors' Proposal
PLAN PROPONENTS		
<b><u>INSELBUCH</u></b> • plan satisfies 524(g) standards -- PI	1.00	Substantial Agreement
<b><u>PETERSON</u></b> • plan satisfies 524(g) standards -- PI	.75	Substantial Agreement
<b><u>SANDERS</u></b> • plan satisfies 524(g) standards -- PD	1.50	Substantial Agreement
<b><u>MARTIN</u></b> • plan satisfies 524(g) standards -- PD	.75	Substantial Agreement
<b><u>FINKE</u></b> • plan satisfies 1129 standards (general) • plan satisfies 524(g) standards --PD	1.50	Substantial Agreement
<b><u>LAFORCE</u></b> • plan satisfies 1129 -- feasibility	1.00	Substantial Agreement
<b><u>ZILLY</u></b> • plan satisfies 1129 -- feasibility/best interest test	1.50	Substantial Agreement
<b><u>MAYNES</u></b> • plan satisfies 1129 and 524(g) re tax issues	.25	Substantial Agreement
<b><u>TAY</u></b> (by declaration/stipulation; if not agreed to then .50 hours direct/cross) • Canadian settlement		Substantial Agreement
	<b>8.25 TOTAL</b>	

<sup>4</sup> Time for Days 7 and 8 reflect direct, cross and redirect unless otherwise indicated.



Plan Fulfills Other Requirements of 1129 and 524(g) of the Code		
Plan Proponents' Proposal	Plan Objectors' Proposal <sup>5</sup>	
PLAN PROPONENTS (cont'd)	Totals	
<b>AUSTERN</b> • plan satisfies 524(g) standards - PI	1.00	1.50 Hours Cross
<b>OBJECTORS</b>		
<b>ANDERSON MEMORIAL<sup>6</sup></b>	?	Ewing (1.00 Dir), Freeman (1.50 Dir), Hilton (.25 Dir), Solomons (.50 Dir)
<b>OTHERS</b>		Objectors will cross Plan Proponents witnesses
<b>REBUTTAL</b>		
<b>HUGHES</b> • non-products coverage	?	
<b>POSNER</b> • non-products coverage	?	
<b>LONGO</b> (addressed earlier in Libby, but also relevant here) •non-products coverage	?	
	<b>TOTAL ____</b>	

<sup>5</sup> Most evidence in this phase will come in by way of cross-examination.

<sup>6</sup> In addition to witnesses addressed herein, Anderson Memorial has indicated that it wants to call on direct, in the absence of an agreement regarding deposition designation or cross-examination, Dr. Florence and Peter Lockwood. The Plan Proponents object to this request.

**Plan Proponents' Proposal**

**Plan Objectors' Proposal**

**CLOSING ARGUMENT**